



Michigan Supreme Court
State Court Administrative Office
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M E M O R A N D U M

DATE: September 23, 2004

TO: Circuit, District, and Municipal Court Judges
cc: Court Administrators, Clerks, Probation Agents and Officers

FROM: John D. Ferry, Jr.

SUBJ: SCAO Administrative Memorandum 2004-13
Assessment of Minimum State Cost and Probation Supervision Fees/Costs
upon Deferred and Delayed Sentence

2004 Public Act 330, effective September 23, 2004, amends MCL 771.3 and affects the assessment of minimum state costs and probation supervision fees/costs.

- A. Circuit Court
- a. All persons sentenced shall be required to pay a probation supervision fee as prescribed in MCL 771.3c. [MCL 771.3(1)(d)]
 - b. The probationer shall pay the minimum state cost prescribed by MCL 769.1j. [MCL 771.3(1)(g)]
 - c. Beginning January 1, 2005, the court may require a probationer to participate in drug treatment court under chapter 10A of the RJA (see 2004 PA 224, ESB 998). [MCL 771.3(2)(g)]
 - d. If, as a condition of probation under subsection (2), the court requires the probationer to pay costs, those costs shall be limited to expenses specifically incurred in prosecuting the defendant or providing legal assistance, and supervision of the probationer. [MCL 771.3(5)]
 - e. If, as a condition of probation under subsection (2), the court requires the probationer to pay costs, those costs shall not be required unless the probationer is or will be able to pay them during the term of probation. The court shall take into account the probationer's financial resources and the nature of the burden of payment, with due regard to his or her other obligations. [MCL 771.3(6)(a)]
 - f. If, as a condition of probation under subsection (2), the court requires the probationer to pay costs, or if the court requires payment of minimum state costs, a probationer who is not in willful default of payment may petition the sentencing judge or his or her successor for remission of any unpaid portion of those costs.

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The court may remit all or part of the amount due if the court determines that payment will impose a manifest hardship on the probationer or his or her immediate family. [MCL 771.3(6)(b)]

- g. If sentencing is deferred, the court shall require the individual to pay a supervision fee in the same manner as prescribed for a delayed sentence under MCL 771.1, shall require the individual to pay minimum state costs prescribed in MCL 769.1j, and may impose, as applicable, the conditions of probation as described in subsections (1), (2), and (3). [MCL 771.3(9)]

B. District and Municipal Courts

- a. The probationer shall pay the minimum state cost prescribed by MCL 769.1j. [MCL 771.3(1)(g)]
- b. Beginning January 1, 2005, the court may require a probationer to participate in drug treatment court under chapter 10A of the RJA (see 2004 PA 224, ESB 998). [MCL 771.3(2)(g)]
- c. If, as a condition of probation under subsection (2), the court requires the probationer to pay costs, those costs shall be limited to expenses specifically incurred in prosecuting the defendant or providing legal assistance, and supervision of the probationer. [MCL 771.3(5)]
- d. If, as a condition of probation under subsection (2), the court requires the probationer to pay costs, those costs shall not be required unless the probationer is or will be able to pay them during the term of probation. The court shall take into account the probationer's financial resources and the nature of the burden of payment, with due regard to his or her other obligations. [MCL 771.3(6)(a)]
- e. If, as a condition of probation under subsection (2), the court requires the probationer to pay costs, or if the court requires payment of minimum state costs, a probationer who is not in willful default of payment may petition the sentencing judge or his or her successor for remission of any unpaid portion of those costs. The court may remit all or part of the amount due if the court determines that payment will impose a manifest hardship on the probationer or his or her immediate family. [MCL 771.3(6)(b)]
- f. If sentencing is delayed or deferred, the court shall require the individual to pay the minimum state costs prescribed in MCL 769.1j. The court may impose, as applicable, the conditions of probation described in subsections (1), (2), and (3). [MCL 771.3(10)]

Implementation questions may be directed to:

Circuit Court	Dawn Childress	517-373-3756
District and Municipal Court	Sandi Hartnell	517-373-0122